



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/174155

PRELIMINARY RECITALS

Pursuant to a petition filed May 9, 2016, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on June 1, 2016, at Milwaukee, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether petitioner met work requirements in September and October, 2015.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner completed a renewal on September 1, 2015, and in doing so became subject to FS employment and training (FSET) requirements. A notice of referral was sent to him on September 2, 2015. He then missed two orientation appointments in September.
3. Petitioner attended an FSET appointment on October 1, 2015 and he signed an employability plan (EP) requiring him to do 20 hours per week work search. FSET records show that petitioner

turned in six hours in the second week of October (the first full week), 15 hours in the third week, 9 hours in the fourth week, and 14 hours in the fifth week.

4. Petitioner was given Time Limited Benefit (TLB) sanctions for both September and October, 2015.
5. Petitioner received a notice dated April 18, 2016 informing him that FS would end May 1, 2016 because his three months' TLB passed. Petitioner filed this appeal. The agency later determined that there was no sanction for March or April, and petitioner's FS remain open with just the 2 TLB months on his record.

DISCUSSION

FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. FS Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. A person can be exempt from the program if he is unfit for employment, that is, he is unable to work as evidenced by a statement by a health care professional or social worker. Handbook, §3.17.1.5. Petitioner does not claim to be exempt.

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which he is not meeting the 80-hour requirement and is not exempt. Handbook, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS *after* meeting the requirement for 30 days). Handbook, §3.17.1.11.

In this case petitioner appealed after receiving a notice that his FS were ending for exhausting the three-month TLB period. However, prior to the hearing it was determined that there was no third month failure to participate, so petitioner's FS remain open at least through the month of June. Petitioner nevertheless seeks to have the earlier months' TLBs overturned. However, there is insufficient evidence to do so. Petitioner missed appointments in September and did not register with the program until October 1, so the September TLB cannot be overturned. The FSET case manager testified that petitioner turned in less than 20 hours of employment search in each of the four full weeks of October for a total of 44.5 hours participation. Petitioner insisted that he did the full 80 hours, but he did not keep copies of any records to support his claim. I cannot overturn the October TLB without verification that petitioner completed the full 80-hour requirement.

CONCLUSIONS OF LAW

Petitioner remains eligible for FS with two TLB months on the record.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of June, 2016

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on June 7, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability